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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|---------------------------|---|
| Proceeding | 91215737 |
| Party | Defendant International Watchman, Inc. |
| Correspondence Address | JOHN D. GUGLIOTTA LAW OFFICES OF JOHN D. GUGLIOTTA, P.E., P.O. BOX 506 RICHFIELD, OH 44286-9010 johng@inventorshelp.com |
| Submission | Answer |
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| Signature | /kmh/ |
| Date | 05/12/2014 |
| Attachments | Answer to Notice of Opposition - OLIN (00600988).PDF(2572469 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

OLIN CORPORATION

Opposer,

v.

INTERNATIONAL WATCHMAN, INC.

Applicant.

Opposition No.: 91215737

Application No.: 85/786149

APPLICANT'S APPOINTMENT OF COUNSEL

Applicant, International Watchman, Inc., hereby files this Appointment of Counsel and requests consideration and entry of the following:

John D. Gugliotta, Michael W. Vary and Kristen M. Hoover, of the firm of McCarthy, Lebit, Crystal and Liffman, Co., L.P.A. , hereby are appointed counsel for Applicant in the above-captioned proceeding.

This the 12th day of May, 2014.

Respectfully submitted,



John D. Gugliotta, Esq.

Michael W. Vary, Esq.

Kristen M. Hoover, Esq.

McCarthy, Lebit, Crystal & Liffman, Co., L.P.A.

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Attorneys for Applicant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OLIN CORPORATION

Opposer,

v.

INTERNATIONAL WATCHMAN, INC.

Applicant.

Opposition No.: 91215737

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**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE
DEFENSES**

Applicant, International Watchman, Inc. ("Applicant" and/or "IW"), hereby answers and responds to the Notice of Opposition filed by Opposer, Olin Corporation ("Opposer" and/or "Olin"), as follows:

1. IW lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 1 of the Notice of Opposition and therefore denies same, leaving Opposer to their proofs.
2. IW lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 2 of the Notice of Opposition and therefore denies same, leaving Opposer to their proofs.
3. IW lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 3 of the Notice of Opposition and therefore denies same, leaving Opposer to their proofs.

4. Applicant admits the allegations set forth in paragraph 4.

5. Applicant admits that if its mark is allowed to register, that it would obtain *prima facie* exclusive right to use the term in certain contexts, thereby clouding Opposer's right to use "NATO" in its endeavors. IW lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations recited in paragraph 5 of the Notice of Opposition and therefore denies same, leaving Opposer to their proofs.

6. Applicant denies the allegations set forth in paragraph 6.

7. Applicant denies the allegations set forth in paragraph 7.

8. IW lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 8 of the Notice of Opposition and therefore denies same, leaving Opposer to their proofs.

9. To the extent that the Opposer is referring to the North Atlantic Treaty Organization, Applicant admits that it is not a member of this agreement, but denies the remaining allegations set forth in paragraph 9.

10. Applicant denies the allegations set forth in paragraph 10.

11. Applicant denies the allegations set forth in paragraph 11.

12. Applicant denies the allegations set forth in paragraph 12.

13. Applicant denies the allegations set forth in paragraph 13.

14. IW admits that Applicant has not yet had any sales of ammunition, but denies that there are no current plans to produce the goods identified in the Application.

15. Paragraph 15 of the Notice of Opposition is a prayer for relief, contains no factual or legal allegations, and requires no response.

AFFIRMATIVE DEFENSES

Further responding to the Notice of Opposition, IW provides the following background information and asserts the following defenses and reserves the right to amend its Answer to assert additional defenses as additional information becomes available.

BACKGROUND OF IW

16. The Applicant, International Watchman, Inc., is a corporation organized under the laws of Ohio, and has its principal place of business in Brunswick, Ohio, which is in Medina County.

17. Since its founding in 1986 and incorporation in 1997, the Applicant has designed, produced, and marketed a broad line of distinctive, high-quality watches, watch parts, watch bands, watch straps, watch bracelets, deployment buckles, watch tools, loupes, case openers, screwdrivers, link removers, hand pullers, spring bars, watch boxes, watch rolls, folders, cases, and other similar products in the United States and overseas.

18. The Applicant is one of the Midwest's leading providers of such products and original equipment parts for hundreds of jewelry stores throughout the United States.

19. Within these areas of specialty, Applicant has become very well known for a distinctive type of Military watchstrap that was originally developed during WWI and WWII for use with military style watches. These watch bands, made of canvas, nylon, ballistic nylon and similar materials created to enhance the original appearance of military watch have become quite popular for all styles of wrist watches and are widely sold by Applicant under the NATO® and NATO-G10® brands.

20. These military straps had, in the past, been sold through distributors and military contractors. Currently, the Applicant sells the NATO® and NATO-G10® brand watch bands

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directly to consumers as part of their website <http://www.internationalwatchman.com/militaryband.htmls>. Additionally, direct to consumer sales are accomplished in great overall volumes through on-line shopping sites such as www.eBay.com and www.Amazon.com.

21. The Applicant has become a leader in the sale of these distinctive type of Military watchstraps.

22. The Applicant has a federally registered mark for "NATO", Registration Number 3,907,646 ("the '646 mark"). *See* Registration Certificate attached hereto as Exhibit 1.

23. The Applicant also has a federally registered mark for "NATO-G10", Registration Number 4,093,914 ("the '914 mark"). *See* Registration Certificate attached hereto as Exhibit 2.

DEFENSES

24. As a first affirmative defense, applicant is unaware that any products could possibly be purchased from the North Atlantic Treaty Organization, or that any consumer could reasonably believe that a purchase of any product, in whatever category, was made from a source directly connected to the North Atlantic Treaty Organization.

25. In spite of this, however, pursuant to TMEP Section 1205.01, the capacity for a statutory prohibition restricting the use of certain words, names, terms, or the like exists. Congress has created about 70 such statutes that grant exclusive rights to use certain designations to federally created private corporations and organizations. *See*, for example, 18 U.S.C. §705 (regarding badges, medals, emblems or other insignia of veterans' organizations), §706 ("Red Cross," "Geneva Cross," and emblem of Greek red cross), §707 (4H Club), §708 (Swiss Confederation coat of arms), §711 ("Smokey Bear"), and §711a ("Woodsy Owl" and slogan, "Give a Hoot, Don't Pollute"). Other statutes provide for civil enforcement, e.g., 36 U.S.C.

§153104 (National Society of the Daughters of the American Revolution), §30905 (Boy Scouts), §80305 (Girl Scouts), §130506 (Little League), and §21904 (The American National Theater and Academy).

26. No such statutory prohibition so exists with the North Atlantic Treaty Organization.

27. Further, TMEP 1203.03(a) defines “persons” for purposes of “false connection” refusals. These include:

- a) A firm, corporation, union, association, or other organization capable of suing and being sued in a court of law;
- b) The United States, any agency or instrumentality thereof, or any individual, firm, or corporation acting for the United States and with the authorization and consent of the United States; and
- c) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity.

28. Applicant contends that the North Atlantic Treaty Organization is not described by any of these definitions. In fact, according to Article XII of the Treaty, the Organization itself has no capability of being sued, and the individual representatives of its members enjoy a very broad immunity from prosecution. Attached hereto as Exhibit 3. More to the point, in *Mazzanti v. H.A.F.S.E. and Ministry of Defense*, Tribunal of Florence, Italy (January 2, 1954), it was determined that the member States of N.A.T.O., through actions of the Security Council of the United Nations, conclusively determined that the North Atlantic Treaty Organization is not a juridical person in the eyes of international law. See International Law Reports, Volume 22 (January 1994), pages 758 through 761. See also August Reinisch, *International Organizations*

Before National Courts, Cambridge University Press, Cambridge, 2000, ISBN 0-521-65326-6, at 449. Attached hereto as Exhibit 4.

29. Further still, assuming, arguendo, that the North Atlantic Treaty Organization were capable of functioning as a juridical person, in order to establish that a proposed mark falsely suggest a connection with a person or an institution, it must be shown that:

- (1) the mark is the same as, or a close approximation of, the name or identity of a person or institution;
- (2) the mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution;
- (3) the person or institution named by the mark is not connected with the activities performed by applicant under the mark; and
- (4) the fame or reputation of the person or institution is such that, when the mark is used with the applicant's goods or services, a connection with the person or institution would be presumed.

In re White, 73 USPQ2d 1713 (TTAB 2004); *In re Nuclear Research Corp.*, 16 USPQ2d 1316, 1317 (TTAB 1990); *Buffett v. Chi Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985); *In re Cotter & Co.*, 228 USPQ 202, 204 (TTAB 1985).

30. In the present case, the acronym NATO is not a name solely associated with the North Atlantic Treaty Organization. NATO is also an acronym for National Association of Theater Owners and North American Tactical Ops. Further, the mark NATO appears in a total of 13 live and issued and 5 pending applications (2 of which are allowed). See Exhibit 5. Thus, because NATO is not an acronym or term that is solely used to identify the North Atlantic Treaty Organization, it cannot be said that the only 'person' which the name possibly identifies is the North Atlantic Treaty Organization and that the mere use of NATO by another appropriates its

identity. See *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 703 F.2d 1372, 1377, 217 USPQ 505, 509 (Fed. Cir. 1983), *aff'd* 213 USPQ 594 (TTAB 1982); *In re Sauer*, 27 USPQ2d 1073 (TTAB 1993), *aff'd*, 26 F.3d 140 (Fed. Cir. 1994). Where a name claimed to be appropriated does not point uniquely and unmistakably to that party's personality or 'persona,' there can be no false suggestion. See *NASA v. Bully Hill Vineyards, Inc.*, 3 USPQ2d 1671, 1676 (TTAB 1987).

31. Further, since non-inherently distinctive marks are not given the breath of exclusivity as coined, fanciful, arbitrary or suggestive words, it would be reasonable to conclude that they are relatively weak marks. Such weak designations may be entitled to a narrow scope of protection. See *In re Hunke & Jocheim*, 220 USPQ 914 (TTAB 1984). Applicant submits that the these arguments apply in the present case, where a narrow scope of protection should be allowed and is capable of coexisting together on the Principal Register and in the marketplace without any False Connection.

32. As a separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claim is barred due to the fact that Applicant's use of Applicant's marks has not interfered with or harmed Opposer's marks, reputation or good will, and Opposer has not shown any injury or damage to Opposer's business reputation or quality of goods or services relating thereto by Applicant's use of the same.

33. As a separate affirmative defense, Opposer's claim is barred from recovery due to the fact that Applicant's use is fair use under 15 U.S.C. §1115(b)(4).

34. As a separate affirmative defense, Opposer's request for relief is barred in whole or part by the equitable doctrines of estoppel, laches, acquiescence and unclean hands.

35. As a separate affirmative defense, Opposer's claim is barred from proceeding with this Opposition because it has no standing to assert these claims.

CONCLUSION

In view of the foregoing, Applicant's requests that the Opposition be dismissed and that Applicant's mark be allowed to proceed to registration.

WHEREFORE, IW requests that the present Notice of Opposition be dismissed with prejudice.

Dated: May 12, 2014

Respectfully submitted,



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Attorneys for Applicant

CERTIFICATE OF ELECTRONIC TRANSMISSION

The undersigned hereby certifies that on this 12th day of May, 2014, the foregoing *Applicant's Appointment of Counsel* and *Applicant's Answer to Notice of Opposition and Affirmative Defenses* was deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via electronic filing through their website at <http://estta.uspto.gov/>.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 12th day of May, 2014, the foregoing *Applicant's Appointment of Counsel* and *Applicant's Answer to Notice of Opposition and Affirmative Defenses* was served upon Opposer by delivering a true and correct copy of same to counsel for Opposer via certified mail, return receipt requested, as follows:

Bryan K. Wheelock, Esq.
Joel R. Samuels, Esq.
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Date: May 12, 2014



Kristen M. Hoover, Esq.
One of the Counsel for Applicant
McCarthy, Lebit, Crystal & Liffman, Co., L.P.A.

EXHIBIT 1

United States of America

United States Patent and Trademark Office

NATO

Reg. No. 3,907,646

Registered Jan. 18, 2011

Int. Cl.: 14

TRADEMARK

PRINCIPAL REGISTER

INTERNATIONAL WATCHMAN, INC. (OHIO CORPORATION)
4301 MANHATTAN AVE.
BRUNSWICK, OH 44212

FOR: WATCHES; WATCH BANDS AND STRAPS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 2-2-2003; IN COMMERCE 5-15-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-054,829, FILED 6-4-2010.

BARBARA A. GOLD, EXAMINING ATTORNEY



David S. Kypos

Director of the United States Patent and Trademark Office

EXHIBIT 2

United States of America
United States Patent and Trademark Office

NATO-G10

Reg. No. 4,093,914

Registered Jan. 31, 2012

Int. Cl.: 14

TRADEMARK

PRINCIPAL REGISTER

INTERNATIONAL WATCHMAN, INC. (OHIO CORPORATION)
4301 MANHATTAN AVE.
BRUNSWICK, OH 44212

FOR: WATCHES; WATCHBANDS; WATCH STRAPS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 2-2-2003; IN COMMERCE 5-15-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,907,646.

SER. NO. 85-370,184, FILED 7-13-2011.

DAVID C. REHNER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

EXHIBIT 3

Agreement

on the status of the North Atlantic Treaty Organization, National Representatives and International Staff signed in Ottawa

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes it is necessary that the North Atlantic Treaty Organization, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

Part I. General

Article I

In the present Agreement,

'the Organization' means the North Atlantic Treaty Organization consisting of the Council and its subsidiary bodies;

'the Council' means the Council established under Article IX of the North Atlantic Treaty and the Council Deputies;

'subsidiary bodies' means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article II, this Agreement does not apply;

'Chairman of the Council Deputies' includes, in his absence, the Vice-Chairman acting for him.

Article II

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military bodies.

Article III

The Organization and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organization, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding the foregoing or any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

Part II. The Organization

Article IV

The Organization shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Article V

The Organization, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the Organization, may expressly authorize the waiver of this immunity. It is however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

Article VI

The premises of the Organization shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

Article VII

The archives of the Organization and all documents belonging to it or held by it shall be inviolable, wherever located.

Article VIII

Without being restricted by financial controls, regulations or moratoria of any kind,

the Organization may hold currency of any kind and operate accounts in any currency;

the Organization may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

In exercising its rights under paragraph 1 above, the Organization shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

Article IX

The Organization, its assets, income and other property shall be exempt:

from all direct taxes; the Organization will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organization for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;

from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

Article X

While the Organization will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the Organization is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article XI

No censorship shall be applied to the official correspondence and other official communications of the Organization.

The Organization shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council acting on behalf of the Organization.

Part III. Representatives Of Member States

Article XII

Every person designated by a Member State as its principal permanent representative to the Organization in the territory of another Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organization and between the Organization and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

Article XIII

Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article XII shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;

in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;

inviolability for all papers and documents;

the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;

the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;

the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;

the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

Where the Legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

In this Article 'representative' shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

Article XIV

Official clerical staff accompanying a representative of a Member State who are not covered by Articles XII or XIII shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 b., c., e., f., h. and i., and paragraph 2 of Article XIII

Article XV

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the

independent exercise of their functions in connection with the North Atlantic Treaty. Consequently, a Member State not only has the right but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

Article XVI

The provisions of Articles XII to XIV above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

Part IV. International Staff and Experts on Missions for the Organization

Article XVII

The categories of officials of the Organization to which Articles XVIII to XX apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

Article XVIII

Officials of the Organization agreed upon under Article XVII shall:

- be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;

- be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;

- be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

- be given, together with their spouses and members of their immediate families residing with and dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;

- have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

- have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

Article XIX

Officials of the Organization agreed under Article XVII shall be exempt from taxation on the salaries and emoluments paid to them by the Organization in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council acting on behalf of the Organization whereby such Member State will employ and assign to the Organization all of its nationals (except, if such Member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the Organization and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

Article XX

In addition to the immunities and privileges specified in Articles XVIII and XIX, the Executive Secretary of the Organisation, the Coordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank.

Article XXI

Experts (other than officials coming within the scope of Articles XVIII to XX) employed on missions on behalf of the Organization shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

immunity from personal arrest or detention and from seizure of their personal baggage;

in respect of words spoken or written or acts done by them in the performance of their official functions for the Organization, immunity from legal process;

the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;

inviolability for all papers and documents relating to the work on which they are engaged for the Organization.

The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

Article XXII

Privileges and immunities are granted to officials and experts in the interests of the Organization and not for the personal benefit of the individuals themselves. The Chairman of the Council

Deputies shall have the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

Article XXIII

The provisions of Articles XVIII, XX and XXI above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organization;

inviolability for all papers and documents relating to the work on which he is engaged for the Organization;

facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions.

Part V. Settlement of Disputes

Article XXIV

The Council shall make provision for appropriate modes of settlement of:

disputes arising out of contracts or other disputes of a private character to which the Organization is a party;

disputes involving any official or expert of the Organization to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity; if immunity has not been waived in accordance with the provisions of Article XXII.

Part VI. Supplementary Agreements

Article XXV

The Council acting on behalf of the Organization may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

Part VII. Final Provisions

Article XXVI

The present Agreement shall be open for signature by Member States of the Organization and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State on the date of the deposit of its instrument of ratification.

Article XXVII

The present Agreement may be denounced by any Contracting State by giving written notification of denunciation to the Government of the United States of America, which will notify all signatory States of each such notification. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement. Done in Ottawa this twentieth day of September, 1951, in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

20 Sep. 1951

EXHIBIT 4

International Organizations Before National Courts

This book investigates in a radically empirical way how national courts 'react' to disputes involving international organizations. Comprehensively analyzing both national courts' attitudes and techniques and underlying policy reasons, it first describes various legal approaches that result in adjudication or non-adjudication of disputes concerning international organizations. Secondly, it discusses policy issues *pro* and *contra* the adjudication of such disputes. It scrutinizes the rationale for immunizing international organizations from domestic litigation, especially the 'functional' need for immunity, and substantially debates the implications of a human rights-based right of access to a court on the immunizing of international organizations against the jurisdiction of national courts. The book finally identifies contemporary trends, seeking to ascertain whether a more flexible principle exempting certain types of disputes from domestic adjudication might substitute for the traditional immunity concept, which would simultaneously guarantee the functioning and independence of international organizations without impairing private parties' access to a fair dispute settlement procedure.

AUGUST REINISCH is Professor of Public International Law and EC Law at the University of Vienna Law School, and a lecturer at the Austrian Diplomatic Academy in Vienna and at the SAIS/ Johns Hopkins University in Bologna.

CAMBRIDGE STUDIES IN INTERNATIONAL AND COMPARATIVE LAW

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Preface

My interest in the subject-matter of this book arose rather incidentally when I attended the 1992 Centre for Studies and Research seminar of the Hague Academy of International Law on 'The External Debt'. It was my task there to focus on responsibility issues concerning debt rescheduling and the international debts crisis; one of the side issues that emerged from this investigation was whether international organizations could be made responsible or liable for part of the crisis and, if so, whether international or national fora would be available to adjudicate such claims. As far as the latter were concerned, it was apparent that immunity from jurisdiction could impede the enforcement of liability. At first, I simply assumed that international organizations would enjoy a similar degree of immunity as states. After a second look, I realized, however, that most applicable international agreements and domestic statutes provided for functional and/or absolute immunity without making explicit what this difference implied. Later on, I found that some national courts, in particular, in the US and Italy, are in fact using a state immunity standard. It appeared that no predictions about any judicial outcomes could be readily made.

To some extent my book is an attempt to find answers to this puzzle. Its subject was soon broadened to include all the various types of reasoning employed by national courts when they have to decide whether or not they will hear cases involving international organizations. It also reflects my preference for 'real world' problems which should hopefully make it a useful companion for the practitioner. At the same time it will evidence my attempt to use strict systematic standards in classifying the types and rationales of judicial responses. If it thereby combines elements of a Common Law inspired case analysis with a more formal Civil Law approach, this was not wholly unintended.

I have attempted to make the study current to spring 1998. This inevitably implies that important later developments could not be covered.

August Reinisch

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My main debt of gratitude goes to Professor Hanspeter Neuhold, who did not only take up the arduous task of presiding over the faculty committee which accepted my thesis in 1998, but who also gave me constant encouragement and practical advice, initially, when delimiting the scope of my study and, later, when confirming my decision to wind it up without venturing into new fields. Equally, I benefited from the wise counsel and valuable comments of Professors Karl Zemanek and Gerhard Hafner. Special mention must also be made of emeritus Professor Ignaz Seidl-Hohenveldern from whose unique experience in the particular subject-matter of my work I benefited when discussing with him various aspects of my work.

I also greatly appreciated the critical remarks and comments of numerous other professors at the University of Vienna among them: Ena-Marlies Bajons, Peter Böhm, Peter Fischer, Christoph Grabenwarter, Hans Hoyer, Theo Öhlinger, Walter Rechberger, and Hannes Tretter. I should also like to thank the external member of the faculty committee, Professor Martti Koskenniemi, whose 'deconstruction' of my policy approach did not only enliven the thesis defense before the faculty committee, but whose suggestions were most helpful and were thus incorporated in the final version.

As regards my work in Washington D.C., particular thanks must go to Professor Christoph Schreuer, with whom I had many discussions on the

legal status of international organizations and whose hospitality at the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, enabled me to immediately start with my research. This work was further facilitated by the SAIS staff, all of whom I would like to thank, singling out Betty Glover for a particular recognition of her help.

I should also like to express my gratitude to Charlotte Ku for the American Society of International Law and to Michael Byers for the British Branch of the International Law Association for inviting me to present parts of my still unfinished study at Tillar House, Washington D.C., and at Jesus College, Oxford. These presentations and the ensuing debates helped me to develop and improve the arguments contained in this book.

My gratitude is further extended to Professor James Crawford, who carefully read my original manuscript, provided a wealth of highly valuable suggestions, which I have largely followed, and did not exasperate over my persistent objections to some others. I can only guess that his role in the decision of the Press Syndicate of Cambridge University Press to include my study in the International and Comparative Law Series was all but marginal. Likewise, I am indebted to the anonymous Reader A who also reviewed my draft manuscript for Cambridge University Press. His valuable comments helped to improve the book. I am particularly grateful to Finola O'Sullivan for preparing the publication of this book in a most efficient and professional manner. And my sincere admiration goes to Martin Gleeson, who helped me to avoid many technical imperfections of the text at the copy-editing stage.

Of course, all the errors and mistakes remain my exclusive responsibility. On the institutional side, I would like to express my gratitude to the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University in Washington D.C. where I was invited to do research as a visiting scholar in 1995/96. The Erwin-Schrödinger-scholarship, which was awarded to me by the Austrian Science Fund, was a *sine qua non* for carrying out this research plan in the United States. Equally, the assistance of the Emil-Boral-Foundation has been instrumental in enabling me to complete my study.

On a personal level, I have relied very much on the support of my family. I am grateful to my mother and father, Herta and August Reinisch, who have enabled me to pursue my studies and who have always encouraged me in my work. Finally, and most importantly, I have to express my thanks to my wife, Elisabeth, for her support and patience with which she endured my passion for tracking down obscure case-

quotations and cryptic footnotes which often made me less available for my family than I wished to be, especially during our 1995/96 stay in Washington D.C. This book is dedicated to her and to our wonderful children, Johanna and August, who have grown up splendidly, while I was writing, without having to worry about 'international organizations before national courts'.

August Reinisch

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E GmbH v. European Patent Organization, Supreme Court, 11 June 1992, OGH/Z, 7 Ob 627/91, (1992) 47 *Osterreichische Juristenzeitung* 661, No. 161. Case Note by Seidl-Hohenveldern, (1993) *Recht der Internationalen Wirtschaft* 238–9 26 note 119, 164, 211f, 213

R. Peter Panuschka v. Peter Schaufler, Commercial Court of Vienna, 29 November 1965, 12 Cg 802/65–2; (1965) *United Nations Juridical Yearbook* 246 160 note 657

X v. Country Y, Supreme Court, 21 November 1990, OGH/Z, 9 Ob A 244/90 235 note 11

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Centre pour le développement industriel (CDI) v. X., Tribunal Civil de Bruxelles, 13 March 1992, (1992) *Actualités du droit* 1377 39f, 228

Dalfino v. Governing Council of European Schools and European School of Brussels I, Conseil d'Etat, 17 November 1982, (1982) RACE 1544; (1998) 108 ILR 638–42 30 note 134, 123

Devos v. Supreme Headquarters Allied Powers Europe (SHAPE) and Belgium, Cour de Cassation (Third Chamber), 13 November 1985, (1986 I) *Pasicrisie Belge* 303; (1993) 91 ILR 242–9 182, 384 note 253

Etat belge, min. Communications v. Tankship Cy. Inc. v. Commission, Cour d'appel de Bruxelles, 1 June 1989, (1989) 96 *Jurisprudence de Liege, Mons et Bruxelles* 1052; (1991) 24 *Revue belge de droit international* 302 162

European School Mol v. Hermans-Jacobs and Heuvelmans-Van Iersel, Court of Arbitration, Case No. 12/94, 3 February 1994, (1994) *Journal des Tribunaux* 532; (1998) 108 ILR 642–8 27 note 123, 176

Manderlier v. Organisation des Nations Unies and Etat Belge (Ministre des Affaires Etrangères), Tribunal Civil de Bruxelles, 11 May 1966, *Journal des Tribunaux*, 10 December 1966, No. 4553, 121; (1966 III) *Pasicrisie Belge* 103; (1966) *United Nations Juridical Yearbook* 283; (1972) 45 ILR 446–55; Case Note by Salmon, (1966) 81 *Journal des Tribunaux* (Brussels) 713–19; Cour d'appel de Bruxelles, 15 September 1969, (1969) *Pasicrisie Belge* 247; (1971) 25 *Revue critique de jurisprudence belge* 449; (1969) *United Nations Juridical Yearbook* 236; Case Note by de Visscher, (1971) 25 *Revue critique de jurisprudence belge* 456–62

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United Nations and UNRRA v. B, Tribunal Civil de Bruxelles, 27 March 1952, (1953 III) *Pasicrisie Belge* 65; (1976) *United Nations Juridical Yearbook* 170 40

Canada

United Nations v. Canada Asiatic Lines Ltd, Superior Court Montreal, 2 December 1952, (1954) *Rapports de Pratique de Québec* 158–60; (1954) 48 *American Journal of International Law* 668; (1958 II) 26 ILR 622 176f

International Civil Aviation Organization v. Tripal Systems Pty Ltd et al., Superior Court, 9 September 1994, (1994) *Recueil de Jurisprudence du Québec* 2560–75 26 note 115, 109, 229

Chile

X v. UN Economic Commission for Latin America, Supreme Court, 8 November 1969, (1969) *United Nations Juridical Yearbook* 237, A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 23 173

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Barrios v. CIPE/General Secretariat of the OAS, Superior Court Bogota, 1973; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 24 138 note 535

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Giurgis v. UNRWA, Labour Court Cairo, 31 December 1961, United Nations Secretariat, *The Practice of the United Nations, the Specialized Agencies and the International Atomic Energy Agency Concerning Their Status, Privileges and Immunities*, 1967, UN Doc. A/CN.4/L.118 and Add. 1–2, *Yearbook of the International Law Commission* (1967), vol. II, 224 at 233; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 19 172

Hilpern v. UNRWA, Egyptian Court, 1952, *Annual Report of the Director of UNRWA*, 8 UN GAOR, Supp. (No. 12) 26, UN Doc. A/2470 (1953); *Annual Report of the Secretary-General*, 9 UN GAOR, Supp. (No. 1) 107, UN Doc. A/2663 (1954); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 11 172

Radicopoulos v. UNRWA, Egyptian Court, 1957, *Annual Report of the Director of UNRWA*, 13 UN GAOR, Supp. (No. 14) 41, UN Doc. A/3931 (1958); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 16 172

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Agence de Cooperation Culturelle et Technique v. Housson, Cour d'appel de Bordeaux, Chambre sociale, 18 November 1982, Cour de Cassation, Chambre sociale, 24 October 1985, No. 3665. Lexis file 189, 225

Avenol v. Avenol, Juge de Paix, XVI^e Arrondissement de Paris, 8 March 1935, (1935) *Recueil Général* Part 3, 38; (1935–7) 8 *Annual Digest of Public International Law Cases* 395–7 263f

Beaudice v. ASECNA, Cour d'Appel de Paris, Première chambre, 25 November 1977, (1979) 106 *Journal de droit international* (Clunet) 128–31; Case Note by Loquin, (1979) 106 *Journal de droit international* (Clunet) 131 182, 227

Bellaton v. Agence spatiale européenne, Cour de Cassation, Chambre sociale, 24 May 1978, No. 76–41.276, (1979) 25 *Annuaire français de droit international* 894; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 34 103, 163 note 673

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Compagnie générale d'énergie radio-électrique, Conseil d'Etat, 30 March 1966, *Rec Lebon*, 257; (1966) *Revue de droit public* 774 96 note 313

Ministre des Affaires étrangères v. Dame Burgat et autres, Conseil d'Etat, 29 October 1976, *Recueil* 452; (1977) 23 *Annuaire français de droit international* 999 at 1004; (1977) 104 *Journal de droit international* (Clunet) 630–1; Case Note by Burdeau, (1977) 104 *Journal de droit international* (Clunet) 631–6 96, 296f, 298, 329

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Girod de l'Ain, Conseil d'Etat, Section de Contentieux, 8^{eme} et 9^{eme} sous-sections, 25 July 1986, Nos. 52699, 52738, 55316, (1986) 2 *Revue française de droit administrative* 956–8; (1987) 33 *Annuaire français de droit interna-*

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Re Courmes, Conseil d'Etat, 1928; (1928) *Recueil des Arrêts du Conseil d'Etat* 357; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 8 115

Re Godard, Conseil d'Etat, 1930; (1930) *Recueil des Arrêts du Conseil d'Etat* 648; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 9 115

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Hetzel v. Eurocontrol II, Federal Constitutional Court, Second Chamber, 10 November 1981, 2 BvR 1058/79, BVerfGE 59, 63; (1982) *Neue Juristische Wochenschrift* 512; (1982) *Deutsches Verwaltungsblatt* 189; (1982) *Die öffentliche Verwaltung* 404

29 note 131, 100 note 337, 291f, 309 note 277, 310, 368 note 187

Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratstelle für Getreide und Futtermittel (Solange I), Federal Constitutional Court (Second Chamber), 29 May 1974, BVerfGE 37, 271; [1974] 2 CMLR 540

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Re Application of Wünsche Handelsgesellschaft (Solange II), Federal Constitutional Court (Second Chamber), 22 October 1986, BVerfGE 73, 339; [1987] 3 CMLR 225

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Pershing, Federal Constitutional Court (Second Chamber), 16 December 1983, BVerfGE 66, 39; (1984) 22 *Archiv des Völkerrechts* 220–34 98

S v. S, Bavarian High Court of Appeals, 30 September 1971, BReg. 1 Z 42/71; (1972) *Familienrechtszeitschrift* 212; (1971) *Entscheidungen des Bayerischen Obersten Landesgerichts in Zivilsachen, Neue Folge* 303–7 255 note 20

Strech v. Eurocontrol, Arbeitsgericht (Labour Court) Karlsruhe, 5 December 1978, 2 Ca 119/78; Landesarbeitsgericht (State Labour Court) Baden-Württemberg, 28 September 1979, 6 Sa 33/79 (unpublished); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 37 107

T v. European Patent Organization, Bayerisches Verwaltungsgericht (Administrative Court) Munich, 19 December 1990, M 6 K 90.1886, Bayerischer Verwaltungsgerichtshof (Appellate Administrative Court) Munich, 13 November 1991, 3 B 91.1972 (unpublished); cited by Hans-Peter Kunz-Hallstein, *Privilegien und Immunitäten internationaler Organisationen im Bereich nicht hoheitlicher Privatrechtsgeschäfte*, (1992) *Neue Juristische Wochenschrift* 3069–73 at 3070, note 12 209

Van Knijff v. European Space Agency, Arbeitsgericht (Labour Court) Darmstadt, 27 November 1980, 1 Ca 359/80; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 40 163 note 673

WEU, Amtsgericht Bonn, 23 August 1961, 23 M 2339/61; (1962) *Monatschrift für deutsches Recht* 315 149, 160 note 657, 167f, 248

X v. European Patent Organization, Arbeitsgericht (Labour Court) Berlin-Charlottenburg, 22 February 1994, 21 Ca 33566/93; Landesarbeitsgericht (State Labour Court) Berlin, 12 September 1994, 16 Sa 58/94 (unpublished) 210, 226, 244 note 54

X et al. v. European School Munich I, Bayerischer Verwaltungsgerichtshof (Administrative Court, 7th Chamber) Munich, 23 August 1989, 7 CS 89.80, 118, 119, 139, 140; (1990) BayVBl 469; (1989) 24 *EuropaRecht* 359–68; (1998) 108 ILR 649–53 150, 182, 217

X et al. v. European School Munich II, Bayerisches Verwaltungsgericht (Administrative Court) Munich, 29 June 1992, M 3 K 90.4137–41 (unpublished), Bayerischer Verwaltungsgerichtshof (Administrative Court, 7th Chamber) Munich, 15 March 1995, 7 B 92.2689–93, 2743, (1996) *Deutsches Verwaltungsblatt* 448; Federal Administrative Court, 9 October 1995, 6 B 51/95 150f, 173, 182, 214, 217, 276, 346

X et al. v. European School Karlsruhe, Federal Administrative Court, 29 October 1992, 2 C 2.90, BVerwGE 91, 126; (1998) 108 ILR 664–8; Case Note by Henrichs, (1994) 29 *EuropaRecht* 358 114, 244 note 54

X v. Hauptgeschäftsstelle Fischwirtschaft, BGH, 28 February 1956, I ZR 84/54 (Hamburg); (1956) *Neue Juristische Wochenschrift* 746 80 note 218

X v. NATO, Landesarbeitsgericht Rheinland-Pfalz, 23 February 1960, 1 Sa 133/59, (unpublished); cited by Friedrich Schröder, 'De l'application de l'immunité juridictionnelle des états étrangers aux organisations internationales' (1971) 75 *Revue générale de droit international public* 712–41 at 722 245

X v. Y (ESRO case), Bundesarbeitsgericht (Federal Labour Court), 5th Chamber, 25 January 1973; 5 AZR 399/72; *Arbeitsrechtliche Praxis* D VA 3, 279; Case Note by Grunsky, (1973) *Arbeitsrechtliche Praxis* H. 13/14, 657 276, 293

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X v. International Centre for Superior Mediterranean Agricultural Studies, Court of Appeals of Crete, 191/1991 (unofficial translation provided by the Ministry of Foreign Affairs of the Hellenic Republic to the author) 191, 235 note 9, 250, 276 note 125

India

Mathew v. International Crops Research Institute for the Semi-Arid Tropics (ICRISAT) and the Government of India, High Court of Andhra Pradesh, 18 August 1982; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 46 135 note 521

Sharma v. UNDP Regional Manager, South Asia, Office of the Labour Commissioner, Delhi Administration, 10 October 1983; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 51 135 note 521

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Mary O'Brien v. Ireland, the Attorney-General and the Minister for Defence, High Court, 26 August 1994, [1995] 1 ILRM 22 158 note 655

Italy

Allied Headquarters in Southern Europe (HAFSE) v. Capocci Belmonte, Corte di Cassazione (Sezione Unite), 5 June 1976, No. 2054, (1976) 12 *Rivista di Diritto Internazionale Privato e Processuale* 860; (1976) 59 *Rivista di diritto internazionale* 824; (1977) 3 *Italian Yearbook of International Law* 328–30; Case Note by Venturini, (1977) 13 *Rivista di Diritto Internazionale Privato e Processuale* 564 25 note 114, 193f

Astrup v. Presidente Consiglio ministri, Constitutional Court, 27 June 1973, No. 96, (1976) 2 *Italian Yearbook of International Law* 354–8 294 note 194, 309

Bari Institute of the International Centre for Advanced Mediterranean Agronomic Studies v. Jasbez, Corte di Cassazione, 21 October 1977, Case No. 4502, (1978) 61 *Rivista di diritto internazionale* 577; (1977) 3 *Italian Yearbook of International Law* 319; (1988) 77 *ILR* 602–9 25 note 113, 186f, 192f

Bari Institute of the International Centre for Advanced Mediterranean Agronomic Studies v. Scivetti, Tribunale di Bari, 23 December 1975; (1976) 59 *Rivista di diritto internazionale* 547; (1977) 3 *Italian Yearbook of International Law* 316–18; (1988) 77 *ILR* 609 25 note 113, 193

Baruffati v. SACLANT ASW Research Center, Pretore La Spezia, 4 February 1977, (1977) *Rivista di Diritto Internazionale Privato e Processuale* 876; (1978–9)

- 4 *Italian Yearbook of International Law* 177–9; Case Note by Battaglia, (1978–9) 4 *Italian Yearbook of International Law* 166–73 110 note 380
- Branno v. Ministry of War*, Corte di Cassazione, 14 June 1954, (1955) 38 *Rivista di diritto internazionale* 352–3; (1955) 22 ILR 756–7
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- Bruno v. USA*, Corte di Cassazione (Sezione Unite), 25 January 1977, No. 355, (1977) 100 *Foro Italiano*, I, 1184; (1978) 61 *Rivista di diritto internazionale* 569–72; (1977) 3 *Italian Yearbook of International Law* 344–7
 25 note 113
- Camera confederale del lavoro and Sindicato scuola CGIL v. Istituto di Bari del Centro internazionale di alti studi agronomici mediterranei*, Pretore di Bari, 15 February 1974, (1977) 3 *Italian Yearbook of International Law* 314–16; Corte di Cassazione (Sezione Unite), 27 April 1979, No. 2425, (1979) 15 *Rivista di Diritto Internazionale Privato e Processuale* 560; (1979) *Rivista di diritto internazionale* 793; (1985) 6 *Italian Yearbook of International Law* 185–7; (1989) 78 ILR 86–90
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- Chirico v. Istituto di Bari del Centre International de Hautes Etudes Agronomiques Méditerranéennes (CIHEAM)*, Tribunale Bari, 10 October 1985, (1985) 38 *Rivista di diritto internazionale* 901–4; (1992) 87 ILR 19–20
 25 note 113
- Commissione delle Comunità europee v. Beditti*, Corte di Cassazione (Sezione Unite), 2 February 1987, No. 930; (1987) *Consiglio di Stato* II, 1358
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- Commissione delle Comunità europee v. Uchiara*, Corte di Cassazione (Sezione Unite), 9 February 1987, No. 1348; (1987) *Consiglio di Stato*, II, 1366
 103 note 349
- Cristiani v. Istituto italo-latino-americano*, Tribunale Roma, 17 September 1981, (1984) *Rivista di diritto internazionale* 666; Corte di Cassazione (Sezione Unite), 23 November 1985, No. 5819, (1986) 69 *Rivista di diritto internazionale* 146–52; (1986) *Rivista di Diritto Internazionale Privato e Processuale* 160; (1992) 87 ILR 21–8
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- Conte v. HAFSE*, Tribunale Napoli, 28 September 1967, (1968) 51 *Rivista di diritto internazionale* 715–18
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- De Langlade v. Ministero tesoro*, Corte di Cassazione, 12 July 1968, No. 2452; (1969) 52 *Rivista di diritto internazionale* 583
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 January 1981, (1982) *Rivista di Diritto Internazionale Privato e Processuale* 95;
 Corte di Cassazione, 18 October 1982, Case No. 5399, (1982) *Foro Italiano*, I,
 2976; (1983) *Rivista di diritto internazionale* 187; (1983) *Rivista di Diritto
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*Food and Agriculture Organization of the United Nations v. Ente Nazionale di
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 Nations Juridical Yearbook* 236 26 note 118

Galasso v. Istituto italo-latinoamericano, Corte di Cassazione (Sezione Unite),
 3 February 1986, No. 667, (1986) 69 *Rivista di diritto internazionale* 890–5;
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HAFSE v. De Raffaele, Corte di Cassazione (Sezione Unite), 24 November
 1978, No. 5514; (1979) *Archivio civile* 410; (1980) *Massimario di Giurisprudenza
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HAFSE v. Ferrero, Sanità and INPS, Pretore di Verona, 17 May 1975; (1977) 3
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HAFSE v. Gardi and INPS, Corte di Cassazione (Sezione Unite), 7 July 1978,
 No. 3366; (1978) *Foro Italiano*, I, 2474; (1978–9) 4 *Italian Yearbook of Interna-*
tional Law 182–4; Case Note by Battaglia, (1978–9) 4 *Italian Yearbook of
 International Law* 166–73 112

HAFSE v. Pastena, Corte di Cassazione (Sezione Unite), 24 March 1980, No. 1966; (1981) *Rivista di Diritto Internazionale Privato e Processuale* 896

25 note 113

HAFSE v. Trotta, Corte di Cassazione (Sezione Unite), 7 July 1978, No. 3367; (1978) *Foro Italiano*, I, 2475; (1978–9) 4 *Italian Yearbook of International Law* 179–82; Case Note by Battaglia, (1978–9) 4 *Italian Yearbook of International Law* 166–73

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HAFSE v. Sindicato FILTAT-CISL Vicenza, Corte di Cassazione (Sezione Unite), 7 July 1978, Case No. 3368, (1979) 62 *Rivista di diritto internazionale* 158; (1988) 77 ILR 630–4

25 note 113, 29 note 130, 112

ICEM v. Di Banella Schirone, Corte di Cassazione, 8 April 1975, Case No. 1266, (1976) 2 *Italian Yearbook of International Law* 351; (1976) 59 *Rivista di diritto internazionale* 819; (1988) 77 ILR 572–7

25 note 113, 136 note 528, 152, 190, 193, 209, 359 note 154

ICEM v. Chiti, Corte di Cassazione, 7 November 1973, Case No. 2910; (1974) 10 *Rivista di Diritto Internazionale Privato e Processuale* 579; (1976) 2 *Italian Yearbook of International Law* 348; (1988) 77 ILR 577

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C v. ICEM, Corte di Cassazione, 7 June 1973, (1973) *United Nations Juridical Yearbook* 197, A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 24

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Institut international pour l'agriculture v. Profili, Tribunale di Roma, 1 February 1930, *Giurisprudenza italiana* (1930), vol. I, section II, 288–93; (1930) 22 *Rivista di diritto internazionale* 409; Corte di Cassazione, 13 May 1931, *Giurisprudenza italiana* (1931), vol. I, section I, 738–47; 26 February 1931, (1931) 23 *Rivista di diritto internazionale* 386; (1929–30) 5 *Annual Digest of Public International Law Cases* 413–15

117, 183, 368 note 188, 379 note 230

Lo Franco et al. v. NATO, Corte di Cassazione, 22 March 1984, (1984) 67 *Rivista di diritto internazionale* 671–9

25 note 113

Luggeri v. ICEM, Tribunale Santa Maria Capua Vetere, 20 June 1966, (1968) 51 *Rivista di diritto internazionale* 140–3; Court of Appeals of Naples, 18 December 1970 (unpublished); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 23

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 25 note 114, 210, 224f

Marré v. Istituto internazionale per l'unificazione del diritto privato (Unidroit), Tribunale Roma, 12 June 1965, (1967) 50 *Rivista di diritto internazionale* 149–50; (1966) *Rivista di Diritto Internazionale Privato e Processuale* 348; (1968) 95 *Journal de droit international* (Clunet) 386; Case Note by Tosato, (1967) 50 *Rivista di diritto internazionale* 150–71; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 19
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Mazzanti v. HAFSE and Ministry of Defense, Tribunal Florence, 2 January 1954, (1955) *Rivista di diritto internazionale* 354; (1955) 22 ILR 758; Court of Appeals of Florence, 4–23 August 1955, *Giustizia Civile* (Section 436) 461 (1955); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 14
 25 note 113, 112

Mininni v. Bari Institute, Pretore di Bari, 29 November 1980, (1981) 64 *Rivista di diritto internazionale* 681–5, Tribunale Bari, 20 June 1981, (1981) 64 *Rivista di diritto internazionale* 685–90, A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 41; Corte di Cassazione, 4 April 1986, No. 2317, (1986) 69 *Rivista di diritto internazionale* 576–81; (1992) 87 ILR 29–37
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Nacci v. Istituto di Bari del Centro internazionale di alti studi agronomici, Corte di Cassazione (Sezione Unite), 8 June 1994, (1994) 77 *Rivista di diritto internazionale* 837–48
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Pelizon v. SETAF Headquarters, Corte d'Appello di Venezia, 19 April 1973, (1974) 97 *Foro Italiano*, I, 537; (1977) 3 *Italian Yearbook of International Law* 338–42
 110 note 380

Giovanni Porru v. FAO, Rome Court of First Instance (Labour Section), 25 June 1969; (1971) *Rivista di Diritto Internazionale Privato e Processuale* 130; (1969) *United Nations Juridical Yearbook* 238; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 21
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Sindicato scuola UIL (Bari Branch) v. Istituto di Bari del Centro internazionale di alti studi agronomici mediterranei, Corte di Cassazione (Sezione Unite), 4 June 1986, No. 3732, (1987) *Rivista di diritto internazionale* 184; (1992) 87 ILR 37–8 113

United States v. Gereschi, Corte di Cassazione, 14 October 1977, Case No. 4372, (1978) 61 *Rivista di diritto internazionale* 573; (1978–9) 4 *Italian Yearbook of International Law* 173; (1988) 77 ILR 598–601 110 note 381

United States v. Porciello, Corte di Cassazione, 27 January 1977, Case No. 400, (1978) 14 *Rivista di Diritto Internazionale Privato e Processuale* 346; (1978–9) 4 *Italian Yearbook of International Law* 174–7 110 note 380, 359

Viecelli v. IRO, Tribunale Trieste, 20 July 1951, (1953) 36 *Rivista di diritto internazionale* 470–2; Case Note by Monaco, (1953) 36 *Rivista di diritto internazionale* 472 108f, 181

Jordan

Y v. UNRWA, Magistrate Court, January 1954, *Annual Report of the Director of UNRWA*, 9 UN GAOR, Supp. (No. 17) 31, UN Doc. A/2717 (1954); *Annual Report of the Director of UNRWA*, 10 UN GAOR, Supp. (No. 15) 35, UN Doc. A/2978 (1955); *Annual Report of the Director of UNRWA*, 11 UN GAOR, Supp. (No. 14) 40, UN Doc. A/3212 (1956); *Annual Report of the Director of UNRWA*, 13 UN GAOR, Supp. (No. 14) 42, UN Doc. A/3931 (1958); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 13 183

Lebanon

W v. UNRWA, Labour tribunal attached to the Ministry of National Economy, 1952, *Annual Report of the Director of UNRWA*, 8 UN GAOR, Supp. (No. 12) 25, UN Doc. A/2470 (1953); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 12 183

X v. UNRWA, Labour Arbitration Tribunal, July 1953, *Annual Report of the Secretary-General*, 9 UN GAOR, Supp. (No. 1) 106, UN Doc. A/2663 (1954); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 13 183

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De Bruyn v. European Parliamentary Assembly, Employment Arbitration Tribunal, 22 January 1962; reported in (1967) 34 ILR 466; A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 18 109

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Bank Bumiputra Malaysia Bhd v. International Tin Council and another, High Court, 13 January 1987; (1987) 2 *Malaya Law Journal* 732; (1989) 80 ILR 24–30 27 note 120, 196

Mexico

Diaz-Diaz v. UN Economic Commission for Latin America, Junta de Conciliación y Arbitraje, 7 August 1953, *Annual Report of the Secretary-General*, 9 UN GAOR, Supp. (No. 1) 105, UN Doc. A/2661; Supreme Court, 28 April 1954, *Annual Report of the Secretary-General*, 9 UN GAOR, Supp. (No. 1) 105, UN Doc. A/2663 (1954); A. N. Vorkink and M. C. Hakuta, *Lawsuits Against International Organizations – Cases in National Courts Involving Staff and Employment* (Washington DC, World Bank Legal Department, 1985), 14 173

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Algemene Bank Nederland v. Minister for Economic Affairs, Council of State, 11 June 1987, KG (1987) No. 350, (1988) 19 *Netherlands Yearbook of International Law* 445–9; (1994) 96 ILR 348–50 158 note 655

Algemene Bank Nederland v. KF and others, Court of Appeal of The Hague, 26 January 1989, Supreme Court, 22 December 1989, RvdW (1990) No. 13; NJ (1990) No. 779; (1991) 22 *Netherlands Yearbook of International Law* 387–98; (1994) 96 ILR 344–58 158 note 655

AS v. Iran–United States Claims Tribunal, Local Court (Kantongerecht) of The Hague, 8 June 1983, *De Praktijkids* (1983) No. 2022. English summary in (1984) 15 *Netherlands Yearbook of International Law* 429–32; (1994) 94 ILR 323–6; District Court (Rechtbank) of The Hague, 9 July 1984, *De Praktijkids* (1984) No. 2006, English summary in (1985) 16 *Netherlands Yearbook of International Law* 471–2; (1994) 94 ILR 326; Supreme Court (Hooge Raad) of

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FO v. VK and Fédération Internationale des Echecs and AK, Amsterdam Court of Appeal, 21 January 1981 (unpublished), cited in 'The Competence of the Iran-US Claims Tribunal to Enter into Private Law Contracts in the Netherlands', letter of the Ministry for Foreign Affairs, 28 January 1982, reprinted in (1983) 14 *Netherlands Yearbook of International Law* 264

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Trans-Mediterranean Airways v. Eurocontrol, Royal Decree (administrative decision of the Crown), 16 January 1974 No. 33, AB (1975) No. 22; (1977) 8 *Netherlands Yearbook of International Law* 258-9

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UNRRA v. Daan, Cantonal Court Amersfoort, 16 June 1948, District Court Utrecht, 23 February 1949, Supreme Court (Hoge Raad) of the Netherlands, 19 May 1950, (1951) NJ 150; (1955) 82 *Journal de droit international* (Clunet) 855-87; (1949) 16 ILR 337-8 40, 45 note 45, 48

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World Health Organization and Dr Leonce Verstuyft v. Hon. Benjamin Aquino et
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 World Bank Legal Department, 1985), 28 129 note 486

Spain

X v. Deodato, Tribunal Constitucional, 28 September 1995, 140/1955. Case
 Note by Massicci/Alfárez, (1997) *Praxis des Internationalen Privat- und Verfah-*
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| 1 | 86150856 | | NATO | TSDR | LIVE |
| 2 | 86152116 | | NATO PAC NATIONAL ASSOCIATION OF THEATRE OWNERS POLITICAL ACTION COMMITTEE | TSDR | LIVE |
| 3 | 85786149 | | NATO | TSDR | LIVE |
| 4 | 85786159 | | NATO | TSDR | LIVE |
| 5 | 85786158 | | NATO | TSDR | LIVE |
| 6 | 85370184 | 4093914 | NATO-G10 | TSDR | LIVE |
| 7 | 85054829 | 3907646 | NATO | TSDR | LIVE |
| 8 | 85586777 | 4214053 | NATO | TSDR | LIVE |
| 9 | 85547815 | 4213737 | NATO | TSDR | LIVE |
| 10 | 85357366 | 4093870 | NATO | TSDR | LIVE |
| 11 | 78780918 | 3403231 | NATO | TSDR | LIVE |
| 12 | 78881646 | 3217718 | NATO | TSDR | LIVE |
| 13 | 78957259 | 3552388 | STG-556 | TSDR | LIVE |
| 14 | 78253802 | 2945057 | NATACOAT | TSDR | LIVE |
| 15 | 77893591 | 3807036 | NATO | TSDR | LIVE |
| 16 | 77893463 | 3799539 | NATO | TSDR | LIVE |
| 17 | 77859512 | 3847330 | NATO | TSDR | LIVE |
| 18 | 77859451 | 3806534 | NATO | TSDR | LIVE |

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